

Translation

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PCT/JP2003/010073

PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference KM-100	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/JP2003/010073	International filing date (day/month/year) 07 August 2003 (07.08.2003)	Priority date (day/month/year) 07 August 2002 (07.08.2002)
International Patent Classification (IPC) or national classification and IPC A01N 43/80, 43/82, 37/40, 41/10, 43/40, 43/50, 43/653, 43/70, 43/88, 43/90, 47/36, 57/20		
Applicant KUMIAI CHEMICAL INDUSTRY CO., LTD.		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>	
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>	

Date of submission of the demand 28 January 2004 (28.01.2004)	Date of completion of this report 30 July 2004 (30.07.2004)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ The international application as originally filed/furnished
- ☐ the description:
- pages _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ the claims:
- pages _____, as originally filed/furnished
- pages* _____, as amended (together with any statement) under Article 19
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ the drawings:
- pages _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-22	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-22	NO
Industrial applicability (IA)	Claims	1-22	YES
	Claims		NO

2. Citations and explanations

Documents cited in the international search report:

Document 1: JP 9-328483 A (Sankyo Co., Ltd.), 22 December 1997, claims and examples

Document 2: JP 8-225548 A (Sankyo Co., Ltd.), 03 September 1996, paragraph [0107]

Document 3: WO 92/22204 A1 (Roquette Freres), 23 December 1992, claims

Newly cited document:

Document 4: WO 99/65314 A1 (BASF AG), 23 December 1999, claims, & JP 2002-518303 A & US 6534444 B1 & EP 1087664 A1

Claims 1-22

The isoxazoline derivatives that are represented by formula [I] set forth in claim 1 are the same as the well-known herbicides that are disclosed in document 1.

Furthermore, in the field related to herbicides it is common practice for a person skilled in the art to broaden the weed control spectrum of a herbicide by adding other herbicides thereto, as disclosed in document 2; therefore, it would be easy for a person skilled in the art to

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conceive of attempting to combine these isoxazoline derivatives with the various herbicides that are disclosed in documents 3 and 4.

In addition, the description of the present application only specifically indicates the synergistic effects of atrazine and cyanazine, and there is no evidence to suggest that a similar effect can be obtained from combinations of the other herbicides within "group (A)"; therefore, combinations that include these other herbicides cannot be said to exhibit an especially prominent effect.

Consequently, the invention that is set forth in claims 1-22 does not involve an inventive step in the light of documents 1-4.